

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SARAH RAMOS, ANGEL SUAREZ, AND  
WILLIAM SUAREZ,

Plaintiffs,

-against-

CITY OF NEW YORK and DETECTIVE JOSE  
MARRERO,<sup>1</sup>

Defendants.  
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**DECLARATION IN  
SUPPORT OF  
DEFENDANTS'  
APPLICATION FOR COSTS  
AGAINST PLAINTIFFS**

15-CV-6085 (ER)

LUCIENNE PIERRE declares pursuant to 28 U.S.C. §1746 and under penalty of perjury that:

1. I am a Senior Counsel in the Office of the Corporation Counsel of the City of New York, and counsel for the defendants in this action. I, along with Assistant Corporation Counsel John L. Garcia, was one of the attorneys assigned to represent the defendants. As such, I am familiar with the facts and circumstances set forth herein.

2. I submit this Declaration in support of the defendants' Bill of Costs and application for an award of costs against Sarah Ramos, Angel Suarez, and William Suarez ("plaintiffs"), in this action.

3. On or about August 3, 2015, plaintiffs commenced this action by filing a complaint in the United States District Court for the Southern District of New York ("the Court") located at 500 Pearl Street, New York, New York 10007. On or about December 21, 2015, plaintiffs subsequently filed a First Amended Complaint to identify and join two previously

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<sup>1</sup> By Orders dated July 31, 2017 and August 17, 2017, the Court dismissed, with prejudice, all claims against defendants Anderson, Bones, and Roberts. Accordingly, Defendants have amended the caption to reflect only the parties remaining in this lawsuit.

unnamed defendants in this action. Plaintiffs alleged, pursuant to 42 U.S.C. § 1983, *inter alia*, claims for false arrest, false imprisonment, failure to intervene, unreasonable search and seizure, and malicious prosecution, including a malicious prosecution claim under New York State law against the individual defendants, and alleged a claim for *respondeat superior* liability against the City of New York in connection with their arrests for participating in a drug transaction on August 2, 2012 in the Bronx, New York.

4. On July 31, 2017 and, subsequently on August 17, 2017, on Order of Defendants' Motion for Summary Judgment filed on February 24, 2017, and on Order of Defendants' Motion for Partial Reconsideration filed on August 11, 2017, respectively, the Court dismissed, with prejudice, all of plaintiffs' claims except for some claims against Detective Jose Marrero.

5. On April 15, 2019, a jury trial commenced in this action in the United States District Court for the Southern District of New York before the Honorable Edgardo Ramos (U.S.D.C.) on the remaining claims.

6. The trial concluded on April 18, 2019 when the jury returned a verdict in favor of defendants.

7. On May 3, 2019, the Clerk of the Court entered Judgment, a copy of which is annexed hereto as **Exhibit "A"**.

8. Defendants now seek an award of costs in the amount of \$2,653.80 as the prevailing party in accordance with Rule 54(d) (1) of the Federal Rules of Civil Procedure and Rule 54.1 of the Local Civil Rules of the Southern District of New York for the following items. As such, defendants attach hereto a Bill of Costs dated May 29, 2019 as **Exhibit "B"**. The costs claimed are correctly stated, are allowable by law, and were necessarily incurred as stated herein.

9. Defendants submit a bill for the cost of the deposition and transcript of plaintiff, Sarah Ramos, conducted on July 13, 2016, that was necessarily obtained during discovery, and that was necessary for use at trial for, including, but not limited to, the cross-examination of the plaintiffs, the direct examination of the defendants, and the preparation of the defendants' further argument at the close of evidence. As the prevailing party, defendants are entitled to this cost in the amount of \$658.40. A true copy of the invoice from Diamond Reporting, Inc., the court stenographer, is annexed hereto as **Exhibit "C"**.

10. Defendants submit a bill for the cost of the deposition and transcript of plaintiff, Angel Suarez, conducted on September 22, 2016, that was necessarily obtained during discovery, and that was necessary for use at trial for, including, but not limited to, the cross-examination of the plaintiffs, the direct examination of the defendants, and the preparation of the defendants' further argument at the close of evidence. As the prevailing party, defendants are entitled to this cost in the amount of \$953.60. A true copy of the invoice from Diamond Reporting, Inc., the court stenographer, is annexed hereto as **Exhibit "D"**.

11. Defendants submit a bill for the cost of the deposition and transcript of plaintiff, William Suarez, conducted on September 14, 2016, that was necessarily obtained during discovery, and that was necessary for use at trial for, including, but not limited to, the cross-examination of the plaintiffs, the direct examination of the defendants, and the preparation of the defendants' further argument at the close of evidence. As the prevailing party, defendants are entitled to this cost in the amount of \$809.60. A true copy of the invoice from Diamond Reporting, Inc., the court stenographer, is annexed hereto as **Exhibit "E"**.

12. Defendants additionally submit a bill for the cost of the deposition and transcript of nonparty witness, Julio Suarez, conducted on October 24, 2016, that was necessarily

obtained during discovery, and that was necessary for use at trial for, including, but not limited to, the cross-examination of the plaintiffs, the direct examination of the defendants, and the preparation of the defendants' further argument at the close of evidence. As the prevailing party, defendants are entitled to this cost in the amount of \$212.20. A true copy of the invoice from Diamond Reporting, Inc., the court stenographer, is annexed hereto as **Exhibit "F"**.

13. Notably, the aforementioned invoices from Diamond Reporting, Inc. ("Diamond") referenced that an original and two copies of the deposition transcripts were provided.

14. The Agency Chief Contracting Officer ("ACCO") of the New York City Law Department has confirmed that, pursuant to contracts then in effect between Diamond and the New York City Law Department, an original and two copies of a transcript are provided when this office requests a deposition to be recorded by stenographic means.

15. This office's contract with Diamond provided for a unit cost of \$3.60 per page. This per page unit cost of the transcript included the requirement that Diamond furnish two copies of the transcript. A copy of a letter from Diamond to this office dated December 23, 2016 reflecting the costs of its services provided through this office's contract with Diamond is annexed hereto as **Exhibit "G"**.

16. Thus, had defendants only requested an original and one copy, Defendants would have had to pay the same contractual unit cost per page. Therefore, the copies of the transcripts were not obtained at an additional cost.

17. Nonetheless, to the extent that the Court determines that some reduction in the cost of the transcripts is appropriate, the proper rate for duplication of the second copy of the

transcript is \$0.12 per page for transcripts prepared for depositions, as referenced in the aforementioned letter to this office from Diamond.

18. Further, defendants are entitled to an additional \$20.00 pursuant to 28 U.S.C. §1923.

19. Thus, the total costs incurred by defendants pursuant to Local Rule 54.1 in the defense of this action are \$2,653.80.

**WHEREFORE**, it is respectfully requested that the Clerk issue an Order granting the defendants costs in the amount of \$2,653.80.

Dated: New York, New York  
May 29, 2019

  
Lucienne Pierre  
Senior Counsel  
Special Federal Litigation Division

cc: VIA ECF  
David Bruce Rankin, Esq.  
Beldock Levine & Hoffman LLP  
99 Park Ave 26th Floor  
New York, NY 10016  
Tel.: (212) 490-0400  
Fax: (212) 277-5880  
Email: DRankin@BLHNY.com

Marc Augustine Cannan, Esq.  
Beldock Levine & Hoffman LLP  
99 Park Avenue  
New York, NY 10016  
Tel.: (212) 277-5853  
Fax: (212) 557-0565  
Email: mcannan@blhny.com  
*Attorneys for Plaintiffs*